

Nebraska Sales and Use Tax Guide for Auction Sales

Revised March, 2004

For more information, check our
Web site: www.revenue.state.ne.us



The purpose of this information guide is to explain the collection of Nebraska sales and use tax by auctioneers.

Overview

Every person engaging in business as an auctioneer is a retailer. All retailers must obtain a Nebraska Sales Tax Permit and collect and remit the appropriate sales tax on all sales, or obtain documentation supporting all tax-free sales.

When the clerk of the auction is not an employee of the auctioneer conducting the auction, the clerk is the retailer and is required to obtain a Nebraska Sales Tax Permit and collect and remit the appropriate tax on all sales, or obtain documentation supporting all tax-free sales.

Taxable Receipts

The gross receipts from ALL sales supervised, aided or conducted by an auctioneer or agent or employee of an auctioneer are taxable, unless a specific exemption applies. Receipts from exempt sales and taxable sales must be separated.

Household goods. Sales of household goods and personal effects at an estate sale or other type of sale conducted, supervised or aided by an auctioneer are taxable, even though such sales would be exempt if the items were sold by the owner.

Estate sales. Items sold at an estate sale conducted, supervised or aided by an auctioneer are taxable EXCEPT sales of real property. Receipts from exempt sales and taxable sales must be separated.

Farm sales. Items sold at a farm sale conducted, supervised or aided by an auctioneer are taxable EXCEPT real property and sales of agricultural machinery and equipment used in commercial agriculture (see Exempt Receipts section). Receipts from exempt sales and taxable sales must be separated.

Unattached camper units or shells. Unattached camper units or shells sold at an auction sale are taxable when sold to a person other than the purchaser of the motor vehicle. Sales tax must be collected on all such sales.

Sale of business and going out of business sales. Sales of new or used business equipment are taxable when conducted, supervised, or aided by an auctioneer.

Silent auctions. A silent bid auction is considered an auction and is treated in the same manner as other auctions.

Exempt Receipts

Sales tax is not required to be collected on certain types of sales, and auctions conducted for certain types of organizations, as indicated below.

Appropriate documentation must be obtained for sales on which no sales tax is collected (see Documenting Exempt Sales section).

Auctions for religious organizations. Sales of property, except motorboats, motor vehicles, trailers, and semitrailers owned by an organization created exclusively for religious purposes, are not taxable, even if the sale is conducted, supervised, or aided by an auctioneer, when the following conditions are met:

- The sale is an activity conducted by such organization or, if more than one organization is involved, by one of the organizations owning the property being sold;

- The items being sold are owned by the organization or, if more than one organization is involved, by one of the organizations conducting the activity;
- The sale does not last longer than three consecutive days; and
- Only ONE sale is conducted during a calendar year. If more than one is held, the sales are taxable.

Farm sales. Sales of qualified agricultural machinery and equipment and farm trailers that will be pulled **exclusively** by a farm tractor are exempt from sales tax **when** supported by appropriate documentation as indicated below. Sales of real property are not subject to sales tax.

Documenting exempt sales. All sales on which no sales tax is collected must be supported by appropriate documentation as indicated below:

- Items purchased for resale purposes must be supported by a properly completed Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13, Section A, signed by the purchaser;
- Items purchased by an exempt entity must be supported by a properly completed Form 13, Section B, signed by the purchaser;
- Sales of qualifying agricultural machinery and equipment and farm trailers that will be pulled **exclusively** by a farm tractor must be supported by a properly completed Nebraska Sales and Use Tax Exemption Certificate for Agricultural Machinery and Equipment Purchases and Leases, Form 13AG, signed by the purchaser;
- Exempt receipts from sales conducted for religious organizations must be supported by a copy of the contract or agreement with the organization to conduct the sale; and
- Sales of real property must be supported by a bill of sale indicating the parcel of land purchased.

General Information

Obtaining a permit. A Nebraska Sales Tax Permit is obtained by completing a Nebraska Tax Application, Form 20, and returning it to the Department of Revenue. This form is available on our Web site.

Reporting the tax. Sales tax is reported and remitted on the Nebraska and Local Sales and Use Tax Return, Form 10. This return may be filed electronically from our Web site.

Motor vehicles, trailers, and semi-trailers. Sales tax is not collected by the auctioneer or the clerk of the auction on sales of motor vehicles, trailers, and semi-trailers. The auctioneer or clerk of the auction must issue a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicles and Trailer Sales, Form 6, and a bill of sale to the purchaser. Within 30 days of the purchase date,

the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

Motorboats. Sales tax is not collected by the auctioneer or the clerk of the auction on sales of motorboats. The auctioneer or clerk of the auction must issue to the purchaser a Nebraska Sales and Use Tax Statement for Motorboat Sales, Form 6MB, and a bill of sale. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

Camper units and camper shells. Camper units and shells sold with a motor vehicle are considered part of the motor vehicle. The auctioneer or clerk of the auction must issue to the purchaser a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicle and Trailer Sales, Form 6, and a bill of sale. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

Camper units and camper shells that are detached from a motor vehicle and sold to the same person who purchased the motor vehicle are considered to be one transaction for the purchase of a motor vehicle. The auctioneer or clerk of the auction must issue a Form 6 indicating the **total** amount paid for **both** the motor vehicle and the camper shell, and a bill of sale. The purchaser must pay sales tax to the appropriate county treasurer within 30 days of the purchase date.

Auctions for licensed retailers. When auctions are conducted for customers who are licensed retailers, the auctioneer becomes an agent for their customer. The auctioneer's customer, the retailer, is responsible for collecting and remitting of the tax.

Tag sales. Property that is sold at a private sale, where property is transferred with the aid or supervision of a third-party, other than an auctioneer at an auction sale, can qualify as an occasional sale. Therefore, an estate sale or some other sale that is not an auction can qualify as an occasional sale even if a business is hired to conduct a tag sale that involves appraising the property, affixing price tags to the property being sold, and collecting the proceeds of the sale. Antique dealers who sell their own antiques or sell items on consignment are retailers. They are required to collect and remit sales tax on such sales.

Consumer's use tax. Auctioneers are the consumers of all items, such as office equipment, office supplies, and sound equipment, used when conducting auctions. Sales tax must be paid when consumable items are purchased. If such items are purchased from an out-of-state vendor who is not licensed to collect Nebraska sales tax, consumer's use tax must be remitted to the department. Consumer's use tax is reported and remitted on the appropriate lines on the Form 10.

Taxpayer assistance. For additional information, please contact the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, NE 68509-4818, or call 800-742-7474 (toll free in NE and IA) or 402-471-5729.